

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SPRINT COMMUNICATIONS	:	
COMPANY, L.P.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 17-1736-RGA
	:	
MEDIACOM COMMUNICATIONS CORP.,	:	
	:	
Defendant.	:	

ORDER DISMISSING SUMMARY JUDGMENT MOTION

Plaintiff filed a motion for summary judgment of no inequitable conduct against Mediacom. (D.I. 305). Plaintiff notes in the motion:

Defendant Mediacom Communications Corporation, in C.A. 17-1736, never pleaded a defense based on inequitable conduct. See C.A. 17-1736, D.I. 19, Mediacom Communications Corporation's First Amended Answer to Sprint Communications Company L.P.'S First Amended Complaint, dated Mar. 21, 2018. Thus, summary judgment of no inequitable conduct should be granted as to Mediacom for this reason alone.

It repeats this assertion in its opening brief. (D.I. 306 at 1 n.1). The docket in the above-captioned case does not have an answering brief addressed to this motion. But in the Charter docket (No. 17-1734, D.I. 502 at 15 n.15), the request to deny the motion is submitted on behalf of all Defendants, which by the docket entry does not include Mediacom. Nevertheless, in the Mediacom docket, there is a reply brief repeating Plaintiff's position from the opening brief. (D.I. 387 at 1 n.1).

I reviewed Mediacom's amended answer. (D.I. 19). It does not contain a hint of a defense or counterclaim of inequitable conduct.

I do not think I can grant summary judgment against a party on an issue that is neither raised by the pleadings nor asserted by the party in the briefing. Inequitable conduct is not an issue in this case. Thus, Plaintiff's motion for summary judgment of no inequitable conduct against Mediacom (D.I. 305) is **DISMISSED**.

IT IS SO ORDERED this 7th day of December 2020.

/s/ Richard G. Andrews
United States District Judge